

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

JOHN K. DRAKE, M.D., ET AL.

PLAINTIFFS

VERSUS

CAUSE NO.: 1:08-CV-690-LTS-RHW

NATIONWIDE MUTUAL FIRE INS. CO., ET AL

DEFENDANTS

**MOTION TO FILE EXHIBIT 4 OF PLAINTIFFS' [116] REPLY TO DEFENDANTS'
RESPONSE IN OPPOSITION TO PLAINTIFFS' [98] MOTION FOR PARTIAL
SUMMARY JUDGMENT ON "LOSS OF USE" COVERAGE UNDER SEAL**

COME NOW THE PLAINTIFFS, by and through counsel, and file their *Motion to File Exhibit 4 of Plaintiffs' [116] Reply to Defendants' Response in Opposition to Plaintiffs' [98] Motion for Partial Summary Judgment on "Loss of Use" Coverage Under Seal*, and in support thereof would show the Court as follows:

1. On or about October 1, 2009, Plaintiffs filed their *Notice of Conventional Filing RE: Exhibit 4 of Plaintiffs' [116] Reply to Defendants' Response in Opposition to Plaintiffs' Motion for Partial Summary Judgment on "Loss of Use" Coverage*. Plaintiffs were advised by the Court that the appropriate *Motion* would need to be filed for the Court's consideration on allowing said Exhibit to be filed under seal. Plaintiffs appreciate the guidance, counsel, and courtesies of the Court.

2. Plaintiffs request that Exhibit 4 of Plaintiffs' [116] *Reply to Defendants' Response in Opposition to Plaintiffs' Motion for Partial Summary Judgment on "Loss of Use" Coverage* be filed under seal as said documents that form Exhibit 4 contain privileged information pursuant to federal law and regulations related to the Housing Urban Development (HUD) and cannot be electronically filed with the Court. Plaintiffs request to file said documents under seal is out of an abundance of caution. However, if the Court does not find that said documents should be filed

under seal in this cause, Plaintiffs will make diligent efforts to redact any potential privileged information. Plaintiffs intend to provide hard copies of Exhibit 4 under seal in lieu of electronic filing.

WHEREFORE PREMISES CONSIDERED, Plaintiff respectfully requests the Court to grant Plaintiffs' *Motion to File Exhibit 4 of Plaintiffs' [116] Reply to Defendants' Response in Opposition to Plaintiffs' [98] Motion for Partial Summary Judgment on "Loss of Use" Coverage Under Seal*, and any additional relief in favor of the Plaintiffs deemed appropriate by this Honorable Court.

Respectfully submitted this the 5th day of October, 2009.

JOHN K. DRAKE, M.D.
DEBORAH DRAKE
Plaintiffs

By: *s/ W. Corban Gunn*
W. CORBAN GUNN, (MSB #101752)

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CERTIFICATE OF SERVICE

I, W. Corban Gunn, Esq., herby certify that on October 5, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM / ECF system which will send notification of such filing to the following:

Dana E. Hill, Esq.
dhill@kirkland.com

Laura L. Gibbes, Esq.
lgibbes@watkinsludlam.com

This the 5th day of October, 2009.

W. Corban Gunn
W. CORBAN GUNN, (MSB #101752)